

Delegate Scanlan.

DELEGATE SCANLAN: Chairman Gallagher, in your presentation you noted that there was some concern if the matter were left to the transitional legislation.

It was not clear to me today, nor has it been for the last three weeks, whether this is a concern about the constitutional authority of the General Assembly to continue the restrictions on the exemption in statutes or concern they will yield to the blandishments of the B&O.

THE CHAIRMAN: Delegate Gallagher.

DELEGATE GALLAGHER: The suggestion has been made that since you cannot tell a great deal from reading the language, the General Assembly would not be prompted to keep the language in unless it had the background.

I am not suggesting that the B&O Railroad would attempt to lobby the section out. I think, more important, that since this entire matter has had constitutional dignity since 1851 as amended in 1891, it would seem a better course of action to keep it in this constitutional sphere for the purpose of dealing with the problem.

I do not say that you could not accomplish the same thing by transitional legislation. I simply say that there are some elements of risk there which probably would not be present if we used the constitutional route.

THE CHAIRMAN: Delegate Scanlan.

DELEGATE SCANLAN: Let me ask you a question about another possible route.

You noted that this provision concerns primarily, if not exclusively, the B&O. You also observed that hopefully as a result of the merger with the C&O the problem will go away and we will have no need for any provision.

Under those circumstances, is there any objection to merely incorporating by reference in this constitution, and continuing in effect, the provisions of section 38, Article III of the Constitution of 1867?

THE CHAIRMAN: Delegate Gallagher.

DELEGATE GALLAGHER: You mean Article 48?

DELEGATE SCANLAN: Article 48—forgive me.

DELEGATE GALLAGHER: I would say there would be this—if no one examines

the acts of the General Assembly from 1851 back, then you do not know what corporations were created which might possibly enjoy some special benefit, be it a tax exemption or something otherwise.

In the absence of knowledge in this field, I would not be disposed to suggest removing the catch-all in its entirety, because there may well be other corporations which have been non-operating but whose charters are still alive. This could become very valuable to them under those circumstances, and I believe, therefore, that I would not be satisfied with having the B&O capitulate, so to speak. I think we ought to keep it alive for whatever other corporation might have these special benefits.

THE CHAIRMAN: Delegate Scanlan.

DELEGATE SCANLAN: My suggestion was that since the problem is a limited one, is there any objection in just incorporating by reference in this constitution the long provisions of Article 48, section 3, rather than going through the ancient ritual, which really does not make a great deal of sense, especially if the problem is about to go away.

DELEGATE GALLAGHER: Well, I think there is a style objection to it. I think we have agreed that we will not incorporate anything in the constitution by constitutional reference to another constitution.

Am I not correct here?

THE CHAIRMAN: You are.

Delegate Scanlan.

DELEGATE SCANLAN: I realize that, but my point was if there was not an objection of style, would there be an objection of substance?

DELEGATE GALLAGHER: I know of no objection to substance. If this were in Latin, I would see keeping it just the way it is forever.

THE CHAIRMAN: The objection is more than one of style. The reason for it is so that one may read the constitution and understand it and not have to resort to another publication to find out what is in it.

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DELEGATE SCANLAN: I understand the reason for the rule and I agree with it, but as the Chairman outlined the problem, this is a problem probably unique to the B&O, and may go away anyway, so we do